IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 106 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE CO-OPERATIVE BANK LTD - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR PS CHAMPANERI for Petitioner(s) : 1,
MR KB TRIVEDI AD. GENERAL WITH MS SANGITA VISHEN AGP for Respondent(s) : 1 - 3.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 22/09/2006

ORAL JUDGMENT

1. This petition has been filed by Cooperative Society to resist any attempt on the part of the State Government to make nominations of its members to the Board of Directors of the Society in terms of provisions contained in section 80 of the Gujarat Cooperative Societies Act (hereinafter referred to as the said Act).

2. Main contention of the petitioner society is that though in the past the Government had stood as guarantor for some of the loans received by the petitioner society; at the time of filing of the petition, such guarantees were discharged. It is, therefore, the case of the petitioner that the Government has no financial stake in the society and, therefore, has no power to nominate its representative to the Board of Directors of the Society in terms of sub section (1) of section 80 of the said Act. Additionally, it is also contended that before nominating any member in exercise of sub section (2) of section 80 of the said Act, the society has to be given a hearing.

3. By order dated 16/2/2005, interim direction was granted in favour of the society.

4. It appears that at present atleast there is no movement of nomination of Government representative in terms of sub section (2) of section 80 of the said Act. Only question that remains for consideration is whether the Government can nominate its members in exercise of powers under sub section (1) of section 80 of the said Act.

5. In facts of this case, this petition is disposed of by permitting the petitioner to represent to the Government pointing out that at present the Government has no financial stake in the society. Annexure 'A' to the petition shall be treated as representation of the petitioner and the Government will examine this aspect before taking a final decision. Till the decision in this regard is taken and communicated to the petitioner, interim protection granted to the petitioner by this Court will continue.

6. With these directions, the petition is disposed of. Rule is made absolute to the above limited extent. No costs.

(Akil Kureshi, J.)

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